



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 5, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0022

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.250 - Interpreters/Translators III. Interview and Interrogation of Non-English Speaking Persons	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	15.250 - Interpreters/Translators III. Interview and Interrogation of Non-English Speaking Persons	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	15.250 - Interpreters/Translators III. Interview and Interrogation of Non-English Speaking Persons	Not Sustained (Unfounded)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

An anonymous Complainant alleged that the Named Employees failed to obtain a translator for the Subject during an incident, as well as that Named Employee #2 and Named Employee #3 were biased towards the Subject.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

15.250 - Interpreters/Translators III. Interview and Interrogation of Non-English Speaking Persons

The Named Employees were dispatched to a property disturbance call. They were informed that an individual – who was later identified as the Subject – had kicked a vehicle, causing damage. When the officers arrived, they spoke to the driver. She and her passenger verified that the Subject had kicked their car, causing it to be damaged. They both had video of the Subject's actions. The driver acknowledged that she had not paid for parking but said that she was only in the lot for five minutes. She further stated that, even had she not paid for parking, it was improper for the Subject to kick her car and that, instead, he could have issued her a ticket.



The officers then spoke to the Subject. He recognized that he kicked the car. He said that the car, like other vehicles, had been parked in the lot without paying. The primary officer told the Subject that he could be arrested for damaging the car; however, the officers instead wrote a report and warned him not to repeat that behavior. Other officers told the Subject that, instead of kicking the car, he could have called the police to have the vehicle trespassed.

OPA later received an anonymous complaint concerning this incident. The Complainant asserted that the officers failed to obtain an interpreter for the Subject and were biased against him. OPA contacted the Subject who said that he did not submit the complaint. However, he confirmed that he was not provided an interpreter, as well as that he believed that two of the officers who responded to the incident were biased towards him.

With regard to the provision of an interpreter, SPD Policy 15.250(III) applies where officers are dealing with “non-English speaking persons.” In those scenarios, officers are required to ask the individuals what their preferred language is and, after receiving that information, to obtain the services of an interpreter.

From OPA’s review of the Body Worn Video (BWV), there does not appear to have been a need for an interpreter in this case. First, the Subject was able to fluently converse with the officers in English and, as such, he did not appear to be “non-English speaking.” Second, the Subject never indicated that he was having trouble understanding or communicating with the officers and they, similarly, did not have such problems. Third, the Subject never asked for an interpreter.

For these reasons, OPA finds that the Named Employees did not violate policy when they did not procure the services of an interpreter. As such, OPA recommends that this allegation be Not Sustained – Unfounded as against all of the Named Employees.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegations #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that Named Employee #2 (NE#2) and Named Employee #3 (NE#3) engaged in biased policing towards the Subject. When asked about this allegation, the Subject said that he also believed that this was the case for two main reasons. First, NE#2 and NE#3 purportedly believed the word of the driver over his account of the incident. Second, the officers responded to the call in this case in 15 minutes while it took them nearly three hours to respond on another occasion that he called the police.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

OPA’s review of the BWV yields no evidence of bias. First, the officers concluded that the Subject had violated the law not simply because of the account provided by the driver and the passenger, but because they also reviewed video evidence of what occurred. Moreover, the Subject admitted kicking the vehicle. Even if this caused no damage, as the Subject contended, doing so was a crime. Second, that the officers responded to this incident in 15



minutes instead of in three hours does not establish bias. Indeed, there are numerous reasons why this could have been the case. For example, this incident may have occurred during a more highly staffed shift or at a time where there were fewer calls that required officer attention. It is also very possible that this incident was prioritized for an immediate response because there was an ongoing dispute between the parties. Regardless, the totality of the record indicates that the response to this incident by NE#2 and NE#3 and the ultimate law enforcement action that they took did not constitute biased policing.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#2 and NE#3.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegation #2

15.250 - Interpreters/Translators III. Interview and Interrogation of Non-English Speaking Persons

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #3 - Allegations #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

For the same reasons as stated above (see Named Employee #2 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #3 - Allegation #2

15.250 - Interpreters/Translators III. Interview and Interrogation of Non-English Speaking Persons

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**